THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.18720 of 2001

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Dated: 08.02.2006

Between:

The Executive Engineer, APSRTC,
Nellore, and others.

..... PETITIONERS

AND

1 The Labour Court, rep. by its Presiding Officer,
Guntur and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.18720 of 2001

Order:

Assailing the award dated 31.08.2000 passed by the Labour Court, Guntur, in I.D. No. 392 of 1994, directing the petitioner-Corporation to reinstate respondent No.2 into service with continuity of service, but without back wages, the petitioner-Corporation filed the present writ petition.

Heard the learned Standing Counsel for the petitioner-Corporation. None appears for respondent No.2.

Learned Standing Counsel for the petitioner-Corporation contends that there is no

relationship of employer and employee between the petitioner-Corporation and respondent No.2, and the Labour Court, without appreciating this fact in relation to the evidence adduced, erroneously passed the impugned award directing the petitioner-Corporation to reinstate respondent No.2 into service with continuity of service, but without back wages. He, thus, prayed that the impugned award be set aside and the writ petition be allowed.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

RespondentNo.2 claims that he worked as Man Mazdoor in petitioner-Corporation from 01.08.1987 to 31.03.1989, on which date his services were orally terminated without complying with the requirements of Section 25-F of the Industrial Disputes Act, 1947. In support of his contention that he has worked for more than 240 days continuously during the said period, respondent No.2 examined himself as WW-1 and got marked Exs.W1 to W5 documents. On behalf of petitioner-Corporation, its Assistant Engineer, who worked at Giddalur from 01.01.1987 to August 1988, was examined as MW-1 and documents, namely M-Books Exs.M1 to M3 from 01.08.1987 to December, 1987, were marked. The evidence of MW-1 and the M-Books Exs.M1 to M3 show that respondent No.2 worked in petitioner-Corporation from 01.08.1987 to December 1987. MW-1 in his evidence categorically admitted that if the M-Books for the period from January 1988 onwards are verified it will be known whether respondent No.2 continued in petitioner-Corporation after December, 1987 or not. In the counter, the petitioner-Corporation has not denied about the engagement of respondent No.2 up to 31.03.1989 and MW-1 also did not deny the said fact. Since the petitioner-Corporation is denying the period of service rendered by respondent No.2, the burden is on it to establish the same. The petitioner-Corporation, even though, was in possession of the M-Books, pertaining to the period from January, 1988 onwards, has not produced the same to rebut the

case of respondent No.2. Therefore, the Labour Court, presuming that respondent No.2 worked as Man Mazdoor from 01.08.1987 to 31.03.1989 and petitioner-Corporation did not comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947, while terminating the services of respondent No.2, by its award dated 31.08.2000, allowed the claim of respondent No.2-workman and directed his reinstatement with continuity of service but without any back wages, and no exception can be taken thereto.

The award of the Labour Court judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any of infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 08.02.2006

Nsr/Ksr